

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

STEVEN W. KIRK,)	
)	
Petitioner,)	
)	
vs.)	NO. CIV-08-1101-HE
)	
DAVID PARKER, Warden,)	
)	
Respondent.)	

ORDER

Petitioner Steven W. Kirk, a state prisoner appearing *pro se*, filed a petition pursuant to 28 U.S.C. § 2254 seeking federal habeas relief from his state court conviction. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to Magistrate Judge Doyle W. Argo who recommends dismissal of the petition for lack of jurisdiction.

Petitioner makes no specific objections to the Report and Recommendation. Instead he reurges the same arguments presented to the Magistrate Judge. Further, petitioner attempts to invoke a First Amendment right to have this court waive any jurisdictional defect and proceed with the present action. As the Supreme Court recently noted, however, courts have “no authority to create equitable exceptions to jurisdictional requirements.” Bowles v. Russell, 127 S. Ct. 2360, 2366 (2007). Having failed to make specific objections to the Report and Recommendation, petitioner has waived further review of the issues contained therein. See United States v. 2121 East 30th Street, 73 F.3d 1057, 1060 (10th Cir. 1996).


After *de novo* review, and for substantially the same reasons as stated in the Report and Recommendation, the court concludes that it lacks jurisdiction due to petitioner’s failure

to seek an order authorizing this court to consider a second or successive application for a writ of habeas corpus in accordance with 28 U.S.C. § 2244(b)(3) and that the interests of justice do not require the transfer of this case to the Tenth Circuit Court of Appeals.

Accordingly, the court **ADOPTS** the Report and Recommendation [Doc. #6]. The petition for writ of habeas corpus is **DISMISSED** without prejudice. Petitioner's motions for appointment of counsel [Doc. #8] and for an evidentiary hearing [Doc. #9] are **DENIED** as moot.

IT IS SO ORDERED.

Dated this 16th day of December, 2008.



JOE HEATON
UNITED STATES DISTRICT JUDGE